

Notice of Allowability

Application No.

10/007,521

Examiner

Elizabeth Slobodyansky, PhD

Applicant(s)

SCHULEIN ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment 26 April 2004 and TD 6 July 2004.
2. ☒ The allowed claim(s) is/are 132,135-138,141,145-147,149-151 and 153-160.
3. ☒ The drawings filed on 10 December 2001 and 26 April 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/651,136.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

The amendment filed April 26, 2004 amending the specification to correct the reference to the prior applications, insert correct sequence identifiers, correct clerical errors and amending claim 132 has been entered.

Figure 1C filed April 26, 2004 has been entered. Figure 1C was inadvertently omitted at the time of the filing of the instant application of December 10, 2001.

A Xerox copy of the Sequence Listing from parent application 09/229,911 has been put in the instant file in lieu of the paper copy of the Sequence Listing (71 pages) submitted at the filing date of the instant application of December 10, 2001.

Claims 132-160 are pending.

Terminal Disclaimer

The terminal disclaimer filed on July 6, 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patents 6,001,639 and 6,387,690 has been reviewed and is accepted. The terminal disclaimer has been recorded.

The terminal disclaimer overcomes potential double patenting rejections over claims 10 and 11 in each of the patents. Said claims are drawn to a laundry composition comprising a surfactant and an endoglucanase from *Thielavia terrestris* having an amino acid sequence comprising SEQ ID NOs: 79 and 80.

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The residues 29-42 of the endoglucanase of SEQ ID NO:12 comprise SEQ ID NO:79 and residues 107-111 comprise SEQ ID NO:80.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

IN THE SPECIFICATION:

On page 1 in the "CROSS-REFERENCE TO RELATED APPLICATIONS",
insert --now Patent 6,387,690-- after "09/229,911 filed January 13, 1999" and
insert --now Patent 6,001,639-- after "08/651,136 filed May 21, 1996".

On page 67, line 1,
replace "calometry" with --calorimetry-- in "Differential scanning
calometry".

IN THE CLAIMS:

In claim 132,
lines 3-4,
replace "that is at least 80% homologous with" with --comprising--;
line 10,
replace "60° C" with --65° C--.

In claims 135 and 136, line 2,

replace "an" in "an amino acid sequence" with --the--.

Cancel claims 133, 134, 139, 140, 142-144, 148 and 152.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Elias Lambiris on July 6, 2004.

The following is an examiner's statement of reasons for allowance:

Skinner et al. (US Patent 4,081,328, form PTO-892 mailed March 10, 2003) teach the cellulase preparation from a thermophilic fungus *Thielavia terrestris* NRRL 8126, the source of the endoglucanase of the instant invention. They teach that said cellulase preparation exhibits optimum cellulytic activity at temperatures from 60° C to about 70° C and pH from about 5.0 to about 5.6 (column 3, lines 54-64; column 4, lines 37-53; column 6, lines 23-33, claim 1). While one of ordinary skill in the art would have a motivation to use thermostable cellulases not necessarily at their pH optimum but at neutral to alkaline pH, i.e. at pH at which laundry detergents are normally used, there is no teaching or suggestion in the art that the cellulase preparation taught by Skinner et al. consists of a single endoglucanase. On the contrary, the fungal cellulase preparations are known to comprise enzymes with different activities resulting in a cumulative effect on cellulose.

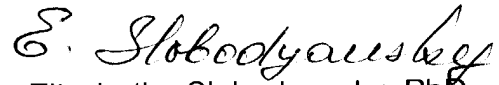
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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Slobodyansky, PhD whose telephone number is 571-272-0941. The examiner can normally be reached on M-F 10:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, PhD can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Elizabeth Slobodyansky, PhD
Primary Examiner
Art Unit 1652

July 6, 2004